

Application No.: 10/731,872  
Filed: December 9, 2003  
TC Art Unit: 2645  
Confirmation No.: 6743

REMARKS

The foregoing Amendment is filed in response to the official action dated January 25, 2006. Reconsideration is respectfully requested.

The status of the claims is as follows:

Claims 1-23 are currently pending.

Claims 1-23 stand rejected.

Claims 1-2, 5, and 7-23 have been amended.

The Examiner has objected to claims 9-14 and 17-19 on the ground that these claims lack antecedent basis, as indicated on pages 2-3 of the official action. In addition, the Examiner has rejected claim 2 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Specifically, in claim 2, the phrases "each determining step" and "the performing step" are not clearly defined. The Applicants believe that the areas of objection/rejection have been identified and addressed in the foregoing amendments to the claims. Accordingly, it is respectfully submitted that claims 2, 9-14, and 17-19, as amended, are in a condition for allowance.

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The Examiner has rejected claims 1-5, 7, 9-10, 19, and 21-23 under 35 U.S.C. 102(b) as being anticipated by Miloslavsky (USP 5,946,387). The Applicants respectfully submit, however, that base claims 1 and 22, as amended, recite subject matter that distinguishes over the Miloslavsky reference, and therefore the rejections of claims 1-5, 7, 9-10, 19, and 21-23 should be withdrawn.

For example, amended claim 1 recites, in relevant part, a method of performing real-time communications over a computer data network between at least two users, each of the at least two users being associated with a client system communicably coupled to the computer data network, including the step of receiving, at a server system communicably coupled to the computer data network, a request for a real-time group action involving a group of users, each user having at least one condition associated therewith, a status of the condition associated with each user being indicative of an availability of the user for participating in the real-time group action, in which the availability of each user is based at least in part upon a digital indication of an online presence of the respective user. Such a method of performing real-time communications is described throughout the instant application,

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for example, see page 4, line 15, to page 6, line 5, of the application.

In contrast, the Miloslavsky reference discloses a computerized telephony call center for serving a customer base (see column 3, lines 28-30, of Miloslavsky). Whereas the method of amended claim 1 is based upon a computerized network of client and server systems, the call center disclosed in the Miloslavsky reference is based upon a conventional telephone network system 100 (see, e.g., column 5, lines 57-67, and Fig. 1, of Miloslavsky, which discloses that calls are routed to call-in centers 121 and 122 over conventional telephony lines 105 and 106 respectively from remote origination points). The disclosure of the Miloslavsky reference is therefore significantly different from what is described and claimed in the instant application.

For example, as indicated above, the method of amended claim 1 includes the step of receiving, at a server system communicably coupled to the computer data network, a request for a real-time group action involving a group of users, each user having at least one condition associated therewith, a status of the condition associated with each user being indicative of an availability of the user for participating in the real-time group action, in which the availability of each user is based at least in part upon a

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digital indication of an online presence of the respective user.

As described in the instant application, such presence indications reflect the instantaneous availability of system users. Instantaneous availability information may, for example, be obtained through a subscription model, in which software on the server system subscribes to notifications from specific client systems indicating events relating to the online status of certain users (see page 12, line 28, to page 13, line 5, of the application).

Amended claim 1 further recites, in the event the real-time group action cannot be performed based on the status of the condition associated with at least one user within the group, the condition status indicating that the at least one user is unavailable to participate in the real-time group action, determining at least one user to substitute for the at least one unavailable user within the group. Although the Miloslavsky reference discloses that an agent to which a call is routed may have, for example, logged off, and is no longer available, and a processor 223 executing a routing algorithm may reroute the call to the agent who is the next best fit and available at the call center 121 (see column 11, lines 20-25, and Fig. 1, of Miloslavsky), the Miloslavsky reference does not disclose the

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status of a condition associated with each user being indicative of an availability of the user for participating in the real-time group action, in which the availability of each user is based at least in part upon a digital indication of an online presence of the respective user, as recited in amended claim 1. This is because the call-routing system disclosed by Miloslavsky is a telephone network-based system, not a computer network-based system, as described and claimed in the instant application.

Important advantages are derived from the method of performing real-time communications over a computer network between multiple users, as recited in amended claim 1. For example, the claimed method can facilitate real-time group interactions, for example, by monitoring events, testing for conditions, and taking appropriate actions. As disclosed in the Miloslavsky reference, the telephony call center described therein is merely adapted to route calls to individual telephones (see column 3, lines 28-34, of Miloslavsky). Further, through rules and a rules engine within the server system, the method of amended claim 1 enables users to control their availability to other users, and how they are accessed for real-time group activities such as online meetings or teleconferences. As a result, the claimed method is particularly suited for setting up real-time

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group activities among a number of key individuals, and for determining the most appropriate substitutes or stand-ins for those key individuals who may be currently unavailable. The Applicants respectfully submit that such important advantages cannot be derived from the telephony call center disclosed by Miloslavsky.

Because the Miloslavsky reference neither teaches nor suggests a method of performing real-time communications over a computer data network between at least two users, including, in relevant part, receiving a request for a real-time group action involving a group of users, each user having at least one condition associated therewith, a status of the condition associated with each user being indicative of an availability of the user for participating in the real-time group action, in which the availability of each user is based at least in part upon a digital indication of an online presence of the respective user, and, in the event the real-time group action cannot be performed based on the status of the condition associated with at least one user within the group, determining at least one user to substitute for the at least one unavailable user within the group, as recited in amended claim 1, the Applicants respectfully submit that the Miloslavsky reference does not anticipate amended claim 1.

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Accordingly, it is respectfully submitted that the rejections of claim 1 and claims 2-5, 7, 9-10, 19, and 21 dependent therefrom under 35 U.S.C. 102 should be withdrawn.

For at least the reasons discussed above with reference to amended claim 1, it is further submitted that the rejections of base claim 22 and claim 23 dependent therefrom under 35 U.S.C. 102 should be withdrawn.

The Examiner has rejected claims 6 and 20 under 35 U.S.C. 103(a) as being unpatentable over Miloslavsky, as applied to claim 5 above, in view of Zhu (USPA Pub. 2002/0194272). Specifically, with respect to claim 6, the official action indicates that Miloslavsky fails to teach that the "event notification indicates that one user is using instant messaging client software", however, the Zhu reference teaches, at a call center, two users are connected via a chat program (see paragraph [0006] of Zhu). The official action further indicates, with respect to claim 20, that Miloslavsky fails to teach "requesting the group action via a web page", however, the Zhu reference teaches requesting a communication link via a web browser (see the Abstract of Zhu).

The Applicants respectfully submit, however, that the Miloslavsky reference neither teaches nor suggests a method of performing real-time communications over a computer data network

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between at least two users, including, in relevant part, receiving a request for a real-time group action involving a group of users, each user having at least one condition associated therewith, a status of the condition associated with each user being indicative of an availability of the user for participating in the real-time group action, in which the availability of each user is based at least in part upon a digital indication of an online presence of the respective user, and, in the event the real-time group action cannot be performed based on the status of the condition associated with at least one user within the group, determining at least one user to substitute for the at least one unavailable user within the group, as recited in amended claim 1, from which claims 5-6 and 20 depend. The Applicants further submit that the Zhu reference does not cure these deficiencies of the Miloslavsky reference.

For example, although the Zhu reference discloses a commerce application of the Zhu system, in which visiting guest users can be directly connected to a randomly-selected, guest-requested, or best-fit service representative, and the most qualified representative can be determined for a particular guest (see paragraph [0044] of Zhu), the Zhu reference neither teaches nor suggests the step of determining at least one user to substitute

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for at least one unavailable user within a group of users involved in a real-time group action, as recited in amended claim 1. Accordingly, even if the teachings of Miloslavsky and Zhu were combined as suggested in the official action, the combined teachings of the Miloslavsky and Zhu references would not suggest to one skilled in this art the subject matter of claims 6 and 20.

It is therefore respectfully submitted that the rejections of claim 6 and 20 under 35 U.S.C. 103 should be withdrawn.

The Examiner has rejected claim 8 under 35 U.S.C. 103(a) as being unpatentable over Miloslavsky, as applied to claim 7 above, in view of Komatsu et al. (USP 6,914,900). Further, the Examiner has rejected claim 11 under 35 U.S.C. 103(a) as being unpatentable over Miloslavsky, as applied to claim 1 above, in view of Nguyen (USP 5,689,566), and further in view of Buscher et al. (USP 5,506,893). Moreover, the Examiner has rejected claim 12 under 35 U.S.C. 103(a) as being unpatentable over Miloslavsky, as applied to claim 1 above, in view of Nguyen and further in view of Yoshida et al. (USP 6,917,676). In addition, the Examiner has rejected claim 13 under 35 U.S.C. 103(a) as being unpatentable over Miloslavsky, as applied to claim 1 above, in view of Nguyen. The Examiner has also rejected claim 14 under 35 U.S.C. 103(a) as being unpatentable over Miloslavsky, as applied to claim 1 above,

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in view of Beasley et al. (USP 6,804,334). The Examiner has also rejected claims 15-16 under 35 U.S.C. 103(a) as being unpatentable over Miloslavsky, as applied to claim 14 above, in view of Beasley et al. and further in view of Fukuda et al. (USP 6,760,322). Finally, the Examiner has rejected claims 17-18 under 35 U.S.C. 103(a) as being unpatentable over Miloslavsky, as applied to claim 14 above, in view of Beasley et al. and further in view of Kundaje et al. (USPA Pub. 2003/0224816).

The Applicants respectfully submit, however, that the Komatsu, Nguyen, Buscher, Yoshida, Beasley, Fukuda, and Kundaje references fail to cure the deficiencies of the Miloslavsky reference. For example, the Buscher, Beasley, Fukuda, and Kundaje references relate to telephone network-based systems, not computer network-based systems, as recited in amended claim 1. Further, although Komatsu and Yoshida discuss an IP network and a LAN, respectively, the Komatsu and Yoshida references merely address problems related to connecting telephones to such networks. The Komatsu and Yoshida references are not concerned with providing a system and method of performing real-time communications over a computer network between groups of users, as described and claimed in the instant application. Accordingly, even if the teachings of Miloslavsky, Komatsu, Nguyen, Buscher, Yoshida, Beasley, Fukuda,

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and Kundaje were combined as suggested in the official action, the combined teachings of these references would not suggest to one skilled in this art the subject matter of claims 8, 11, and 12-18.

It is therefore respectfully submitted that the rejections of claims 8, 11, and 12-18 under 35 U.S.C. 103 should be withdrawn.

In view of the foregoing, it is respectfully submitted that the present application is in a condition for allowance. Early and favorable action is respectfully requested.

The Examiner is encouraged to telephone the undersigned Attorney to discuss any matter that would expedite allowance of

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the present application.

Respectfully submitted,

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